HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No.4832 of 2005
Date of decision : 22.01.2007

Kanwar Bhan **.....Petitioner**

versus

Sewa Ram and others **.....Respondents**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Suvineet Sharma, Advocate for the petitioner.

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JUDGMENT

HEMANT GUPTA, J. (Oral)

The challenge in the present revision petition is to the orders dated 24.5.2005 and 25.7.2005, passed by the learned Courts below, whereby the plaintiff was called upon to affix the ad-valorem Court fee.

The plaintiff has filed the present suit, challenging the sale deeds dated 26.3.1999 and 27.4.1999, executed by his father. It is the case of the plaintiff that defendant No.1, his father, is the karta of the Joint Hindu Family Coparcenary property, therefore, he had no right to sell the property. The question, whether the ad-valorem Court fee is required to be affixed in a suit of the nature where the claim is based upon the fact that the property was a Joint Hindu Family property, is not res integra. In a case where challenge is to a sale effected by karta of a Joint Hindu Family property, the principles laid down by the Hon'ble Full Bench of this Court in case reported "***1981 P.L.J.-423, Niranjan Kaur versus Nirbigan Kaur",*** would not be applicable as it has been held therein that such a suit stands on different footing. While considering the aforesaid judgment in "***2006(2)- The Punjab Law Reporter-6,***

Smt.Beena and others versus Rajinder Kumar and others", I have examined the question and held that the Court fee payable on such a suit is under Section 7 (iv) (c) read with Section 7 (v) of the Court Fees Act, 1870.

Consequently, the present revision petition is allowed. The orders dated 24.5.2005 and 25.7.2005, passed by the learned Courts below, are set-aside. The petitioner shall make good the deficiency in the Court fee, if any required, in terms of Section 7(v) (a) of the Court Fees Act, 1870.

(HEMANT GUPTA)
January 22, 2007 **JUDGE**

**mohinder*